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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,914	06/26/2003	John B. Pickering	GB9-2001-0104US1 (353)	5710
40987 7590 01/11/2007 AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER JACKSON, JAKIEDA R	
			ART UNIT	PAPER NUMBER
			2626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/606,914	Applicant(s) PICKERING, JOHN B.	
	Examiner Jakieda R. Jackson	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 19-27** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 19-27 are drawn to a "program" *per se* as recited in the preamble and as such is/are non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any

structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. In the instant application the preamble discloses "a machine readable storage". A machine-readable storage is not necessarily computer-usable.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 3-6, 8-10, 12-15, 17-19, 21-24 and 26-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Henton (USPN 5,860,064) in view of Kantrowitz (USPN 6,622,140).

Regarding **claims 1, 10 and 19**, Henton discloses a method, system and storage, hereinafter referenced as a method for preparing a document to be read by a text-to-speech reader, said method comprising:

identifying two or more voice types available to the text-to-speech reader (angry, bored emphasis, etc.; figure 2); and

identifying text elements within the document (select text; figure 3, element 501 with column 6, lines 8-10), but does not specifically teach grouping similar text elements and classifying the text elements according to voice types available.

Kantrowitz teaches a method for analyzing emotion in text comprising:

grouping similar text elements together (canonicalized into groups; column 5, lines 7-59); and

classifying the text elements according to voice types available to the text-to-speech reader (classified as positive, negative or neutral; column 5, lines 7-59), to analyze and measure emotions and affect in text documents.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henton's method wherein it comprises grouping similar text elements and classifying the text elements according to voice types available, as taught by Kantrowitz, to analyze the subtle stylistic cues and influence that word choice applies to the emotional tone of a document (column 2, lines 9-15).

Regarding **claims 3, 12 and 21**, Henton discloses a method wherein the step of identifying text elements comprises breaking down the document into elements and separating out the text elements (select portion of the text; column 7, line 60 – column 8, line 67).

Regarding **claims 4, 13 and 22**, Henton discloses a method wherein the step of grouping similar text elements together comprises parsing for structural features of the text elements (parse and process text; column 13, lines 26-37).

Regarding **claims 5, 14 and 23**, Henton discloses a method wherein the structural features of the text elements include at least one of the position of the text element in the document, the syntax of the text element, and text features within the text element (syntax; column 13, line 26 – column 16, line 24).

Regarding **claims 6, 15 and 24**, Henton discloses a method for preparing a document to be read by a text-to-speech reader, but does not specifically teach a method wherein the step of grouping similar text elements further comprises parsing for thematic features of the text elements.

Kantrowitz teaches a method for analyzing emotion in text wherein the step of grouping similar text elements further comprises parsing for thematic features of the text elements (column 5, lines 7-59), so that variants can be treated as one instead of a multitude, to take into account all variations.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henton's method wherein the step of grouping similar text elements further comprises parsing for thematic features of the text elements, as taught by Kantrowitz, so that variants can be treated as one instead of a multitude (column 7-25).

Regarding **claims 8, 17 and 26**, Henton discloses a method for preparing a document to be read by a text-to-speech reader, but does not specifically teach a method wherein the step of classifying the text elements according to the characteristics of the available voice types comprises identifying similar themes within the text elements and voice types.

Kantrowitz teaches a method for analyzing emotion in text wherein the step of classifying the text elements according to the characteristics of the available voice types comprises identifying similar themes within the text elements and voice types (column 5, lines 6-59), to analyze and measure emotions and affect in text documents.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henton's method wherein the step of classifying the text elements according to the characteristics of the available voice types comprises identifying similar themes within the text elements and voice types, as taught by Kantrowitz, to analyze the subtle stylistic cues and influence that word choice applies to the emotional tone of a document (column 2, lines 9-15).

Regarding **claims 9, 18 and 27**, Henton discloses a method for preparing a document to be read by a text-to-speech reader, but does not specifically teach a method wherein the step of classifying the text elements according to the characteristics of the available voice types comprises identifying similar intentions within the text elements and voice types.

Kantrowitz teaches a method for analyzing emotion in text wherein the step of classifying the text elements according to the characteristics of the available voice types comprises identifying similar intentions within the text elements and voice types (column 1, line 55 – column 2, line 15), to distinguish between positive and negative emotion.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henton's method wherein the step of classifying the text elements according to the characteristics of the available voice types comprises

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identifying similar intentions within the text elements and voice types, as taught by Kantrowitz, to analyze the subtle stylistic cues and influence that word choice applies to the emotional tone of a document (column 2, lines 9-15).

5. **Claims 2, 7, 11, 16, 20 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Henton in view of Kantrowitz, and in further view of Squibbs et al. (USPN 7,103,548), hereinafter referenced as Squibbs.

Regarding **claims 2, 11 and 20**, Henton in view of Kantrowitz discloses a method for preparing a document to be read by a text-to-speech reader, but does not specifically teach a method further comprising marking a text element with a tag corresponding to the voice type classification of the text element.

Squibbs discloses audio-form presentation of text messages identifying two or more voice types (figure 2, element 40) further comprising marking a text element with a tag corresponding to the voice type classification of the text element (voicing tag; figure 2, element 40 with column 4, lines 44-67), to customize voicing.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henton in view of Kantrowitz's method further comprising marking a text element with a tag corresponding to the voice type classification of the text element, as taught by Squibbs, to customize its voicing of the message and to incorporate particular sound passages into the audio form of the message (column 4, lines 44-67).



Regarding **claims 7, 16 and 25**, Henton in view of Kantrowitz discloses a method for preparing a document to be read by a text-to-speech reader, but does not specifically teach a method wherein the step of classifying the text elements according to the available voice types comprises finding the best match between the grouped text elements and the characteristics of the voice types.

Squibbs discloses audio-form presentation of text messages identifying two or more voice types (figure 2, element 40) wherein the step of classifying the text elements according to the available voice types comprises finding the best match between the grouped text elements and the characteristics of the voice types (column 5, lines 30-47 with column 9, lines 42-65 and column 11, lines 46-49), to provide emotion indicators to be expressed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Henton in view of Kantrowitz's method wherein the step of classifying the text elements according to the available voice types comprises finding the best match between the grouped text elements and the characteristics of the voice types, as taught by Squibbs, to provide a method for generating a text message enabling the user to embed in the text message both emotion indicators indicative of emotions to be expressed, and feature type indications which serve to determine which of multiple audio-form of the text message, the emotions indicated by said emotion indicators (column 3, lines 25-33).

**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Tischer (PGPUB 2004/0111271) discloses a method and system for customizing voice translation of text to speech.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R. Jackson whose telephone number is 571.272.7619. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571.272.7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRJ

January 4, 2007

  
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